

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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COLLEEN McAVEY,

Plaintiff,

07 CIV 11181 (SCR)

-against-

ORANGE-ULSTER BOCES, JEFFREY SMITH,
former Deputy Superintendent, JAKE McHALE,
Principal of Flannery High School, and
MARGUERITE FLOOD, Executive Director for
Personnel, sued in their individual capacities,

Defendants.

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CHRISTOPHER D. WATKINS, Esq., duly sworn, deposes and states:

1. I am an attorney admitted to, and in good standing with, this Court. I am with the law firm of Sussman & Watkins, attorneys for plaintiff. The following is submitted in opposition to defendants' motion to dismiss.
2. Attached hereto as Exhibit 1 is a true and correct copy of a November 8, 2005 letter from Jeffrey Smith to Colleen McAvey. This letter is incorporated by reference at paragraph 37 of plaintiff's Complaint.

Dated: January 25, 2008
Goshen, New York

By: 

CHRISTOPHER D. WATKINS (CW 2240)

EXHIBIT 1

ADMINISTRATION

Robert J. Hanna, Ph.D.
Executive Officer
Jeffrey D. Smith, J.D.
Deputy Superintendent
Mary Ann Wilson, Ed.D.
Assistant Superintendent for Instruction
Deborah McBride Heppes
Assistant Superintendent for Finance
Marguerite Flood
Executive Director for Personnel
Karen L. McGuckin
Clerk of the Board



BOARD MEMBERS
Carl P. Orknen, Pres.
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Cathleen M. Dick
Eugenia S. Pavek
Dorothy A. Slattery

November 8, 2005

Ms. Colleen McAvey
60 Little York Road
Warwick, New York 10990

Dear Ms. McAvey:

Please accept this letter as a representation of our conversation which took place in my office on October 14, 2005. Also present were Dr. Vaughan, Mrs. Flood, Mr. McHale and Mr. Zwick. We had an extensive discussion about your role in reporting a situation that might possibly have involved abuse in the educational setting. You indicated that you had made this report to Mr. McHale. First, let me reiterate that I find your reporting such a suspicion the correct thing to be done by a school counselor.

My concern however, is about your subsequent involvement with the Goshen Town Police and the Times Herald Record. Given the nature of our students, I believe the best course of action for a counselor is to report the issue to his or her school administrator and let the investigation go through its process. I do not believe it is beneficial or appropriate for individual staff members to be involved directly with the police and/or newspapers in instances surrounding student matters.

In the future, should these circumstances arise again, I am directing that you stay in process and work directly with your school administrator.

Sincerely,

Jeffrey D. Smith

JDS/lca

cc: Personnel File
M. Flood
L. Vaughan
J. McHale
J. Zwick



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